HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No. 19013 of 2007

Between:

J.A. Azaraiah

... Petitioner

And

Union of India, rep. by its Secretary,
Home, New Delhi & another

... Respondents

:: O R D E R ::

Counsel for the petitioner : Shri S. Agasthya Sarma

September 10, 2007

Per G.S. SINGHVI, CJ

The petitioner, who retired from the post of Assistant Secretary to Government of Andhra Pradesh, has filed this petition in the name of public interest litigation with the prayer that the respondents be directed to preserve the sanctity and spirit of the Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 and for quashing the amendments made vide S.O.No.1219 (E) dated 13.12.2001 and S.O.No.106 (E) dated 4.2.2000 issued by the Government of India. He has further prayed for issue of a mandamus for implementation of G.O.Ms.No.610 dated 30.12.1985 with particular reference to repatriation of employees to their respective zones.

We have heard Shri A. Agastyhya Sharma, learned counsel for

the petitioner and scrutinised the averments contained in the petitioner's affidavit. In our opinion, the petitioner does not have the locus to invoke jurisdiction of this Court by filing writ petition probono publico. He is neither the person affected by non-implementation of G.O.Ms.No.610, dated 31.12.1985 nor he is a public spirited person or social activist interested in maintaining balance between various regions of the State insofar as matters' relating to appointment of employees in different cadres is concerned. His position is nothing more than that of a meddlesome interloper or a mere bystander. Therefore, we do not see any reason to entertain the prayer made by him.

In **Janata Dal v. H.S. Chowdhary**[1], the Supreme Court considered the question whether a political party or an individual was entitled to invoke the High Court's jurisdiction in the name of public interest litigation and laid down the following propositions:

> "1) In defining the rule of locus standi in PIL no 'rigid litmus test' can be applied since the broad contours of PIL are still developing apace seemingly with divergent views on several aspects of the concept of this newly developed law and discovered jurisdiction leading to a rapid transformation of judicial activism with a far-reaching change both in the nature and form of the judicial process. The dominant object of PIL is to ensure observance of the provisions of the Constitution or the law which can be best achieved to advance the cause of community or disadvantaged groups and individuals or public interest by permitting any person, acting bona fide and having sufficient interest in maintaining an action for judicial redress for public injury to put the judicial machinery in motion like *action popularis* of Roman Law whereby any citizen could bring such an action in respect of a public delict. The Supreme Court has widely enlarged the scope of PIL by relaxing and liberalizing the rule of standing by treating letters or petitions sent by any person or association complaining violation of any fundamental rights and also entertaining writ petitions filed under Article 32 by public spirited and policy-

oriented activist persons or journalists or of any organization rejecting serious challenges made with regard to the maintainability of such petitions and rendered many virtuosic pronouncements and issued manifold directions to the Central and the State Governments, all local and other authorities within the territory of India or under the control of the Government of India for the betterment of the public at large in many fields in conformity with constitutional prescriptions of what constitutes the good life in a socially just democracy.

2) However, only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the court for the poor and needy, suffering from violation of their fundamental rights. But a person for personal gain or private profit or political motive or any oblique consideration has no locus standi. Similarly, a vexatious petition under the colour of PIL brought before the Court for vindicating any personal grievance, deserves rejection at the threshold. The Court should not allow its process to be abused by mere busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either for themselves or as proxy of others or for any other extraneous motivation or for glare of publicity. But this does not mean there is any retreating or recoiling from the earlier views expressed by the Supreme Court about the philosophy of public interest litigation.

3) In this case 'not even a single ray of the characteristic of public interest litigation is visibly seen' in the petitions of Shri H.S. Chowdary. He appears to be very much concerned with the personal and private interest of the accused in the criminal case. It cannot be said that this litigation is in the nature of PIL to vindicate and effectuate the public interest. Therefore, Shri Chowdhary has no locus standi to file the petition or to invoke the revisional or extraordinary inherent jurisdiction of the High Court under Sections 397 and 482 CrPC respectively and the petition under Article 51-A of the Constitution cannot come within the true meaning and scope of public interest litigation."

In **Rajnit Prasad v. Union of India**[2], the Supreme Court noted that the scope of locus standi has been widened in recent years, but ruled that a mere busybody, who has no interest, cannot invoke

jurisdiction of the superior Courts in the name of public interest litigation.

In **Dattaraj Nathuji Thaware v. State of Maharashtra**[3], the Supreme Court while rejecting the locus of the petitioner, who was a lawyer, to file petition in public interest, observed as under:

> "A person acting bona fide and having sufficient interest in the proceedings of public interest litigation will alone have a locus standi and can approach the court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. A writ petitioner who comes to the Court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective. The court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives, and try to bargain for a good deal as well as to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs."

In **T.N. Godavarman Thirumalpad (98) v. Union of India**[4], the Supreme Court again administered a caution against entertaining of frivolous petitions in the name of public interest litigation and held:

> "Howsoever genuine a cause brought before a court by a public interest litigant may be, the court has to decline its examination at the behest of a person who, in fact, is not a public interest litigant and whose bona fides and credentials are in doubt. In a given exceptional case where bona fides of a public interest litigant are in doubt, the court may still examine the issue having regard to the serious nature of the public cause and likely public injury by appointing an amicus curiae to assist the court but under no circumstances with the assistance of a doubtful public interest litigant. No trust can be placed by the court on a mala fide applicant in public interest litigation. These are basic issues which are required to be satisfied by every public interest litigation."

By applying the ratio of the above noted judgments, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP No.24443 of 2007 filed by the petitioner for interim relief is also dismissed.

G.S. SINGHVI, CJ

September 10, 2007

C.V. NAGARJUNA REDDY, J

svs

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[1] (1992) 4 SCC 305

[2] (2000) 9 SCC 313

[3] (2005) 1 SCC 590

[4] (2006) 5 SCC 28